

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

AVIS RENT A CAR SYSTEM, LLC, et al.,

:

Plaintiffs,

vs.

: Case No. 3:12cv399

CITY OF DAYTON, OHIO,

: JUDGE WALTER H. RICE

Defendant.

DECISION AND ENTRY OVERRULING, WITHOUT PREJUDICE TO RENEWAL, THE MOTIONS OF THE PLAINTIFFS FOR ATTORNEYS' FEES UNDER RULE 54(d)(2) OF THE FEDERAL RULES OF CIVIL PROCEDURE (DOC. #82 AND #83), WITHOUT PREJUDICE TO RENEWAL, SHOULD SAME REMAIN VIABLE AFTER THE DECISION OF THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

On August 22, 2013, the Court issued a Decision and Entry (Doc. #81) that dismissed the claims of Plaintiffs that were not resolved by its Decision and Entry Sustaining Plaintiffs' Motion for Summary Judgment (Doc. #77) and ordered Plaintiffs to file Motions for Attorneys' Fees under Federal Civil Rule 54(d)(2). On September 17, 2013, the Court ordered Plaintiffs and Defendant to file no further briefs in support or memoranda contra to said Motions for Attorneys' Fees, until the appellate process had concluded and, then, only if said motions remained viable.

Upon further consideration, the Court orders said Motions for Attorneys' Fees (Doc. #82 and #83) to be dismissed, without prejudice to renewal should this Court's decision in Plaintiffs' favor be affirmed by the United States Court of Appeals for the Sixth Circuit. As to the means of renewal, should said motions remain viable, the Plaintiffs will simply need to file a brief Entry,

renewing its Motions for Attorneys' Fees and requesting thirty days to supplement same, by documenting fees and costs expended during the appellate process. Of course, the Defendant will be given a similar period of thirty days to respond to the Plaintiffs' supplementation of its attorneys' fees request.

Because the quantification of attorneys' fees and costs cannot be ripe for resolution until the conclusion of the appellate process and, then, only if the Court's opinion is affirmed and, further, because a future evidentiary hearing may be necessary in addition to the briefing and supplementation of the parties, it is simply not an effective use of the parties' and the Court's resources to have said Motions for Attorneys' Fees to pend on this Court's docket.

August 1, 2014

WALTER H. RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of Record